

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

In the Matter of:

C & C Enterprises
7910 Enterprise Drive
Newark, Alameda County

COMPLAINT NO. 01-002

for
ADMINISTRATIVE
CIVIL LIABILITY

YOU ARE HEREBY GIVEN NOTICE THAT:

1. C & C Enterprises (hereinafter the Discharger) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Regional Board), may impose civil liability pursuant to Section 13385 of the California Water Code.
2. Unless waived, a hearing on this matter will be held before the Regional Board on June 20, 2001 in the Elihu M. Harris State Building, First Floor Auditorium, 1515 Clay Street, Oakland, California, 94612. You or your representative(s) will have an opportunity to be heard and to contest the allegations in this complaint, and the imposition of civil liability by the Regional Board. An agenda showing the time set for the hearing will be mailed to you no less than ten days before the hearing date. You must submit any written evidence concerning this complaint to the Regional Board by June 6, 2001. Any written evidence submitted to the Board after June 6, 2001 will not be included in the record.
3. At the hearing the Regional Board will consider whether to affirm, reject, or modify the proposed administrative civil liability, or whether to refer the matter to the Attorney General for recovery of judicial civil liability

ALLEGATIONS

4. The following facts are the basis for the alleged violation in this matter:
 - a. The Discharger submitted a Notice of Intent (NOI) to obtain coverage under the State Water Resources Control Board's discharge permit for Storm Water Discharges Associated with Industrial Activities, Water Quality Order No. 97-03-DWQ, NPDES No. CAS000001 (General Permit). The Discharger's Waste Discharge ID No. is 228S014496.

- b. The General Permit requires the Discharger to submit an annual report documenting sampling and analyses, observations, and an annual comprehensive site compliance evaluation, by July 1 of each year.
- c. Prior to the July 1 deadline, the State Water Resources Control Board mailed a blank form for the annual report to the Discharger.
- d. The Discharger is alleged to have violated its waste discharge requirements by failing to submit its 1999/2000 annual report by July 1, 2000.
- e. On August 15, 2000, the Acting Executive Officer issued a Notice of Noncompliance (NNC) letter to the Discharger. The Discharger was notified of its obligation to submit an annual report and to comply with the General Permit. The Discharger was required to respond by September 15, 2000.
- f. On September 26, 2000, the Acting Executive Officer issued a second NNC letter to the Discharger. This letter informed the Discharger that it was in violation of the General Permit and that the Executive Officer would recommend enforcement actions if an annual report was not submitted. The Discharger was required to respond by October 26, 2000.
- g. As of the date of this Complaint, the Discharger has failed to submit its 1999-2000 annual report. The Discharger has been in violation of the General Permit for a total of 303 days (July 2, 2000 through April 30, 2001). The total maximum liability that may be assessed for this violation is 3,030,000.

PROPOSED CIVIL LIABILITY

- 5. Issuance of this Complaint is exempt from the provisions of the California Environmental Quality Act (Public Resources Code 21000 et seq.) in accordance with Section 15321 of Title 14, California Code of Regulations.
- 6. Under Section 13385(c)(2) of the California Water Code, the Regional Board can impose a maximum civil liability of \$10,000 per day of violation. Under Section 13399.33(c), the minimum civil liability for failure to submit an annual report is \$1,000. This Complaint addresses violations for the 303-day period from July 2, 2000 through April 30, 2001.
- 7. The Executive Officer of the Regional Board proposes that an administrative civil liability be imposed in the amount of \$5,000. Of this amount \$2,400 is for recovery of staff costs. The Executive Officer will not consider any request to reduce the amount of proposed liability based on the Discharger's alleged inability to pay unless the Discharger submits adequate proof of financial hardship, e.g., two years of income tax returns or an audited financial statement.

8. Further failure to comply with the General Permit or amendments thereof beyond the date of this Complaint may subject the Discharger to further administrative civil liability, and/or other appropriate enforcement action(s), including referral to the Attorney General.

Loretta K. Barsamian
Loretta K. Barsamian
Executive Officer

May 21, 2001
DATE

Please contact Rico Duazo at (510) 622-2340 or Dorothy Dickey, Regional Board Counsel, at (510) 622-2490 if you have any questions.

WAIVER OF HEARING

You may waive the right to a hearing. If you wish to waive the hearing, an authorized person must check and sign the waiver and return it to the Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay St., Suite 1400, Oakland, CA, 94612. Payment of the administrative civil liability is due within thirty (30) days after the waiver is signed.

WAIVER OF HEARING

FOR

COMPLAINT NO. 01-002

**C & C Enterprises
7910 Enterprise Drive
Newark, Alameda County**

- ☐ By checking the box, I agree to waive my right to a hearing before the Regional Board with regard to the violations alleged in the above Complaint No. 01-002 and to remit payment for the civil liability imposed. I understand that I am giving up my right to argue against the allegations made by the Executive Officer in the complaint, and against the imposition of, or the amount of, the civil liability proposed. I further agree to remit payment for the civil liability imposed within 30 days after the waiver is signed.

Signature: _____

Name: _____

Position: _____

Company: _____

Date: _____



California Regional Water Quality Control Board

San Francisco Bay Region



Gray Davis
Governor

Internet Address: <http://www.swrcb.ca.gov>
1515 Clay Street, Suite 1400, Oakland, California 94612
Phone (510) 622-2300 ~ FAX (510) 622-2460

Winston H. Hickox
Secretary for
Environmental
Protection

Certified Mail No.: 70993220000146713914
Return Receipt Requested

Date: MAY 31 2001
File No: 2198.23 (RAD)

Mr. Barney Correa
C & C Enterprises
7910 Enterprise Drive
Newark, CA 94560

SUBJECT: ADMINISTRATIVE CIVIL LIABILITY COMPLAINT NO. 01-002
C & C Enterprises
7910 Enterprise Drive
Newark, Alameda County

Dear Mr. Correa:

Enclosed is a Complaint for Administrative Civil Liability issued to C & C Enterprises for the subject site. The Complaint alleges that C & C Enterprises has violated its waste discharge requirements by failing to submit its 1999/2000 annual report by July 1, 2000, as required. The complaint proposes administrative civil liability of \$5,000.

A public hearing on this matter has been scheduled for the June 20, 2001, Regional Board Meeting in the Elihu M. Harris State Building, First Floor Auditorium, located at 1515 Clay Street, Oakland, California. The meeting agenda will be mailed to you prior to the hearing.

At this time, you have three options:

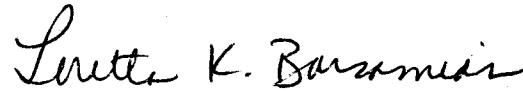
1. You can appear before the Board during the scheduled meeting to contest the Complaint; written comments are due by June 6, 2001. At that time, the Board may impose the Administrative Civil Liability in the amount proposed, for a different amount, decline to seek civil liability, or refer the case to the Attorney General.
2. You can waive the right to a hearing by signing the attached "Waiver of Hearing" form and submitting it to the Regional Board at 1515 Clay St. Suite 1400, Oakland, CA 94612, by June 6, 2001. By doing so, you agree to pay the liability within 60 days of this Complaint's issuance.

California Environmental Protection Agency

3. You may request that a portion of the assessment be suspended and an amount equal to the suspended amount be dedicated to a local Supplemental Environmental Project (SEP). If so, do not sign the waiver; instead state your intent in a letter addressed to me, no later than June 6, 2001. Attached is a description of the Regional Board's program for SEPs. Staff can assist you in identifying and developing an acceptable project.

Please contact Rico Duazo at (510) 622-2340 or Dorothy Dickey, Regional Board Counsel, at (510) 622-2490 if you have any questions.

Sincerely,



Loretta K. Barsamian
Executive Officer

Enclosures:

Complaint No. 01-002
Attachment 1 - Staff Report
Attachment 2 - SEP Information

cc: Regional Board
State Water Resources Control Board, Office of the Chief Counsel - Dorothy Dickey
State Water Resources Control Board, Division of Water Quality - Bruce Fujimoto
State Water Resources Control Board, Office of Statewide Consistency - Margie Young

Attachment 2

Subject: SUPPLEMENTAL ENVIRONMENTAL PROJECTS AS COMPONENTS OF ADMINISTRATIVE CIVIL LIABILITIES

The San Francisco Bay Regional Water Quality Control Board (Regional Board) accepts and encourages Supplemental Environmental Projects (SEP's) in lieu of a portion of the Administrative Civil Liability imposed on dischargers in the Bay Area. This letter is to inform you of the types of projects the Board will accept and the procedures for proposing and implementing a project.

The overall goals of the Regional Board's program for SEP's: 1) monetary penalties should be directed to projects within the Region; 2) projects should benefit the environment; 3) projects should focus on education, outreach and/or restoration. The Regional Board identifies four categories of SEP's that may receive funding: pollution prevention, pollution reduction, environmental restoration, and environmental education. The project should not be used to mitigate the damage caused directly by the original violation or to implement measures required to comply with permits or regulations, since this is the responsibility of the discharger regardless of any penalties involved.

The Regional Board does not select projects for SEP's; rather, it is the discharger's responsibility to propose the project (or projects) they would like to fund and then obtain approval from the Regional Board. However, the Regional Board can facilitate this process by maintaining a list of possible projects, which is made available to dischargers interested in pursuing the SEP option. Dischargers are not required to select a project from this list, however, and may contact local governments or public interest groups for potential projects in their area, or develop projects of their own.

In cases where an SEP is approved by the Regional Board, payment of a portion of the ACL will be suspended if the project is satisfactorily completed on schedule. The SEP can only be used to offset a portion of a proposed penalty; therefore the final ACL package will consist of a monetary penalty, reimbursement of staff costs, and a project. Note that the total penalty is not reduced by implementing a project; rather the method of payment is being modified in order to achieve a greater environmental benefit.

To improve tracking and overall performance of SEP, the Regional Board has set up a monitoring program. The San Francisco Estuary Project (SFEP) is available to oversee the SEP's. They serve as liaison between the Discharger, the Regional Board and the fund recipient and will monitor project implementation and expenses. SFEP staff will also maintain a current list of potential projects and can assist in the selection process. This coordination work is funded by allocation of 6% of the SEP to the San Francisco Estuary Project.

Questions regarding the San Francisco Bay Regional Water Quality Control Board's SEP program may be directed to Carol Thornton at the San Francisco Estuary Project, (510) 622-2419.